

ROBERT J. COSGROVE, ESQ.  
[rcosgrove@wcmlaw.com](mailto:rcosgrove@wcmlaw.com) (E-mail)  
Attorney ID # 204665  
Wade Clark Mulcahy LLP  
1515 Market Street, Suite 2050  
Philadelphia, PA 19102  
(267) 239-5526 (Phone)  
Our File No.: 372.13239

Attorneys for S&F Logistics, LLC  
and John McCollum

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VICTOR HUGO SILVESTRE GARCIA,	:	Civil Division
	:	
Plaintiff,	:	
	:	
v.	:	No. 21-cv-4062
	:	
S&F LOGISTICS, LLC, JOHN MCCOLLUM,	:	
and JOHN DOE(S),	:	
	:	
Defendant.	:	
	:	

---

**NOTICE OF REMOVAL**

**TO: THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Defendants, S&F Logistics, LLC and John McCollum (“Defendants”), through their attorneys, Wade Clark Mulcahy, LLP, hereby file a Notice of Removal of this case from the Court of Common Pleas of Pennsylvania, Philadelphia County, to the United States District Court for the Eastern District of Pennsylvania, and in support hereof, avers as follows:

*Procedural Posture*

1. On or about August 10, 2021, plaintiff Victor Hugo Silvestre Garcia (“Garcia”) commenced a civil action by filing a Complaint in the Court of Common Pleas of Pennsylvania,

Philadelphia County, Civil Division, Docket No. 210800737. *See Exhibit A: Garcia's Complaint.*

2. The Complaint alleges that Garcia suffered injuries which are or may be permanent in nature in an incident that occurred on August 12, 2019, where Garcia was rear-ended by the Tractor Trailer driven by McCollum. *See Ex. A* at ¶ 39, 40, 41.

*The Parties*

3. Garcia is an adult individual who resides at in Matamoros, Tamaulipas, Mexico. *See Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010).

4. S&F Logistics, LLC is a limited Liability Company with its headquarters located at 16360 Industrial Drive, Milford, Virginia 22514. *See Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010).

5. John McCollum is an adult individual who resides at 420 Joann Road, Somerville, Tennessee 38068. *See Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 419 (3d Cir. 2010).

*Removal Based On Diversity Jurisdiction*

6. 28 U.S.C. § 1441(a) provides, in pertinent part, that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.”

7. The party seeking removal is proper as he is a defendant in this action.

8. The federal district court, Eastern District of Pennsylvania, is proper as its jurisdiction includes Philadelphia County, PA where the action is pending.

9. Further, 28 U.S.C. § 1332(a)(1) states that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.”

10. The above-described civil action is one in which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, based upon the fact that S&F Logistics, LLC and John McCollum do not share a state of citizenship with Garcia and the amount in controversy exceeds \$75,000.

11. First, Garcia is diverse from S&F Logistics, LLC and John McCollum because he is a citizen of Mexico and S&F Logistics, LLC is headquartered in Virginia and McCollum is a citizen of Tennessee.

12. Second, the amount in controversy exceeds \$75,000. Garcia asserts damages “in an amount in excess of Fifty Thousand (\$50,000.00) Dollars”, together with costs, attorney fees, punitive damages. *See Ex. A.* As such, based on the averments in the complaint and, upon information and belief, the amount in controversy exceeds \$75,000.

13. Accordingly, this action may be removed to this Court by Notice pursuant to 28 U.S.C. § 1441 and § 1446.

#### *Timeliness of Removal*

14. Pursuant to 28 U.S.C. § 1446(C)(3), “if the case stated by the initial pleading is not removeable, the notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may be first ascertained that the case is one which is or has become removable.”

15. Service of this Notice of Removal has been filed within thirty (30) days after Defendants were served with Garcia’s complaint on September 3, 2021, which was the first paper from which Defendants could ascertain that the case is one which is removable.

*Notice*

16. Written notice of the filing of this Notice of Removal has been given to all adverse parties in accordance with 28 U.S.C. § 1446(d) and is noted in the certificate of Service annexed hereto.

17. Promptly after filing in this Court and the assignment of a Civil Action Number, a Notice of Removal will be filed with the Court of Common Pleas of Pennsylvania, Philadelphia County in accordance with 28 U.S.C. § 1446(d).

18. Copies of all process, pleadings, and orders served upon Yan are attached hereto in accordance with 28 U.S.C. § 1446(a).

*Non-Waiver of Defenses*

19. By removing this action from the Court of Common Pleas, Philadelphia County, Defendants do not waive any defenses available to them.

20. By removing this action from the Court of Common Pleas, Philadelphia County, Defendants do not admit any of the allegations in Garcia's Complaint.

WHEREFORE, Yan prays that he may affect the removal of this action from the Court of Common Pleas of Pennsylvania, Philadelphia County, to the United States District Court for the Eastern District of Pennsylvania.

Dated: September 13, 2021  
Philadelphia, PA

WADE CLARK MULCAHY, LLP

*/s/ Robert J. Cosgrove*

---

By: Robert J. Cosgrove, Esq.

**VERIFICATION**

I, Robert Cosgrove, verify that I am the attorney for Jiahao Yan and am authorized to make this verification. I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: September 13, 2021  
Philadelphia, PA

WADE CLARK MULCAHY, LLP

*/s/ Robert J. Cosgrove*

---

By: Robert J. Cosgrove, Esq.